

U.S. Department of Justice



*United States Attorney
Southern District of New York*

86 Chambers Street
New York, New York 10007

July 27, 2015

BY ECF

The Honorable Laura Taylor Swain
United States District Judge
United States Courthouse
500 Pearl Street
New York, NY 10007

Re: *Nunez v. City of New York*, 11 Civ. 5845 (LTS)(JCF)

Dear Judge Swain:

We write respectfully on behalf of the United States, the *Nunez* class-action plaintiffs, (collectively, “Plaintiffs”), and the City defendants (the “City”) in response to your request that the parties advise Your Honor regarding the nature of the evidentiary submission we intend to make to show that the relief in the proposed Consent Judgment satisfies the requirements under the Prison Litigation Reform Act (the “PLRA”).

Under the PLRA, a court may only grant or approve prospective relief in an action addressing prison conditions if “the court finds that such relief is narrowly drawn, extends no further than necessary to correct the violation of the Federal right, and is the least intrusive means necessary to correct the violation of the Federal right.” 18 U.S.C. § 3626(a)(1). As the Court is aware, the City has expressly agreed in the proposed Consent Judgment that these PLRA requirements are met. Consent Judgment, § XXII, ¶ 1. During the conference on July 9, 2015, Your Honor requested that the parties submit a declaration or affidavit explaining how the proposed reforms meet the statutory requirements, and suggested that such a filing could possibly be submitted by a Department of Correction (“DOC”) official. Your Honor asked the parties to get back to the Court regarding the form of the requested evidentiary submission.

The parties have conferred and are inclined at this point to submit a declaration from an individual who is not a DOC employee. Instead, we are contemplating submitting a declaration from Steve Martin, who would serve as the Court-appointed monitor under the proposed Consent Judgment. In his role as the *Nunez* plaintiffs’ expert consultant, Mr. Martin reviewed voluminous documentation and other information concerning DOC’s operations and participated directly and extensively in the settlement negotiations. Mr. Martin is well-positioned to submit a declaration in support of the required PLRA findings, which would set forth how the various categories of reforms in the proposed Consent Judgment meet the needs-narrowness-intrusiveness PLRA standard, will effectively address the violations alleged by the Plaintiffs, and will not have an adverse impact on public safety or the operation of the criminal justice system. This declaration would be filed along with the parties’ submission in support of their motion for

final approval of the Consent Judgment, which is due on October 2, 2015. Even if the parties submit a declaration from an individual other than Mr. Martin, or the evidentiary submission is made in another form, the parties will ensure that the submission fully addresses the Court's request for support for the necessary PLRA findings.

We appreciate the Court's consideration of this matter.

Respectfully,

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